

In The Matter Of:
Indiana Horse Racing Commission Meeting

IHRC Meeting
June 11, 2013

<p>L*4949*L* Page 1</p> <p>1 2 INDIANA HORSE RACING COMMISSION 3 MEETING 4 5 HELD ON 6 JUNE 11, 2013 7 9:00 A.M. 8 9 INDIANA STATE LIBRARY 10 315 W. OHIO STREET 11 INDIANAPOLIS, INDIANA 12 13 TAKEN BY 14 ROBIN P. MARTZ, RPR 15 NOTARY PUBLIC 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 3</p> <p>1 generated in horsemen's contracts 51 2 11. Consideration of horsemen's contract between 3 Indiana Downs and the QHRAI 63 4 12. Consideration of horsemen's contract between 5 Indiana Downs and the Indiana HBPA 68 6 13. Consideration of Centaur's proposal that 7 Commission delegate authority to Executive Director to 8 make determinations pursuant to IC 4-31-9-1.5(b) NA 9 NEW BUSINESS 69 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES 2 William Diener., Chairman 3 Steve Schaefer, Vice-Chairman 4 Jason Barclay 5 Doug Grimes 6 Joe Gorajec, Executive Director 7 Lea Ellingwood, Esq. 8 Holly, Newell, Esq. 9 INDIANA HORSE RACING COMMISSION 10 1302 North Meridian Street, Suite 175 11 Indianapolis, IN 46202 12 13 AGENDA 14 1. Report on 2013 Legislative Session 4 15 2. Consideration of emergency rules: mobile gaming6 16 3. Report from Centaur regarding construction of 17 additional barns at Indiana Downs 13 18 4. Consideration of emergency rule re: 71 IAC 5.5-3-1 19 Eligibility 18 20 5. Review of Commission Rulings - March 1, 2013 21 through April 30, 2013 22 22 6. Consideration of approving Jim Lauck as an ALJ 23 23 7. Consideration of Patrick settlement agreement 23 24 8. Consideration of request by Centaur to approve 25 amended tote services contract 25 26 9. Consideration of Commission policy re: Horsemen's 27 Associations' use of state-directed funds to aware 28 scholarships 29 29 10. Discussion regarding reduction in purses</p>	<p style="text-align: right;">Page 4</p> <p>1 CHAIRMAN DIENER: Call the meeting to order. 2 We have a quorum today. Mr. Schenkel is not here. 3 (At this time the oath was administered to the 4 court reporter by Chairman Diener.) 5 CHAIRMAN DIENER: The first item on the agenda 6 today is the approval of the minutes of the meeting 7 we held on April 5, 2013. Are there any 8 additions, corrections to those minutes? I will 9 hear a motion to approve. 10 COMMISSIONER SCHAEFER: So moved. 11 COMMISSIONER GRIMES: Second. 12 CHAIRMAN DIENER: All in favor. 13 THE COMMISSION: "Aye". 14 CHAIRMAN DIENER: The minutes have been 15 approved. 16 The first item on today's agenda is kind of a 17 summary report of legislation in the last session 18 of our General Assembly, which has been enacted 19 into law. And I'm going to turn that over to 20 Miss Ellingwood to give us an update on that. 21 MS. ELLINGWOOD: Thank you, Chairman. The 22 legislature enacted three pieces of legislation 23 which have a material impact on horse racing. A 24 copy of each has been included in your packets for 25 reference. The first of those three being enacted</p>

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1 is House Enrolled Act 1176, which broadens the
2 definition of racing official and prohibits certain
3 people, including spouses of commission members,
4 commission employees, and racing officials from
5 wagering on horse racing at a licensed facility.
6 Licensed facility is defined as the track and the
7 OTB.
8 Second, Senate Enrolled Act 528 essentially
9 codifies current practice with respect to the
10 approval and the use of limited mobile gaming
11 systems. These provisions became effective
12 immediately upon passage. And as a result the
13 Commission will be considering changes to its
14 administrative rules under agenda item two.
15 Finally, Senate Enrolled Act 609 makes a
16 number of substantive changes. First, the
17 threshold levels of penalties that can be
18 administered by the judges and stewards has
19 increased. And the change amends some provisions
20 regarding the disciplinary action process. SEA 609
21 also alters provisions regarding distribution of
22 slot funds in a way that requires the horsemen's
23 associations and the track to negotiate the amount
24 distributed.
25 The bill also requires the State Board of

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1 Accounts to do an annual audit of the horsemen's
2 associations and tracks, makes changes to the
3 annual report, and other administrative functions,
4 and postpones the effective date of the wagering
5 restriction passed in House Enrolled Act 1176 to
6 the end of the year rather than the July 1st.
7 CHAIRMAN DIENER: Thank you. Any questions of
8 Miss Ellingwood among members of the Commission?
9 Thank you very much.
10 Agenda item number two are emergency rules,
11 proposed emergency rules prepared to reflect the
12 change in definition of the one statute that Miss
13 Ellingwood mentioned and that has to do with the
14 mobile gaming devices. There has been one
15 clarification that I've suggested to the
16 Commissioners for their consideration is that these
17 electronic wagering systems, when somebody has one
18 of those in one of the licensed facilities, either
19 a satellite facility or the track, that device can
20 only be used to place wagers on pari-mutuel horse
21 races.
22 Similarly, if a person would come from a
23 casino adjoining the track and they came in with
24 their device into one of our licensed facilities,
25 they could not be placing wagers on anything in our

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1 track without one of our devices, which is
2 restricted to pari-mutuel horse racing.
3 So these are proposed implementing rules which
4 really just changes some definitions. And I will
5 open that up to consideration by the Commissioners.
6 Any questions?
7 COMMISSIONER GRIMES: Mr. Chairman, before the
8 meeting, I asked Miss Ellingwood about the use of
9 the terms "wagering" and "gaming" and wanted to get
10 a better sense of whether they were in conflict or
11 whether they created an ambiguity. She was about
12 to give me an explanation. So I would like to hear
13 that.
14 CHAIRMAN DIENER: Yes, Commissioner Grimes.
15 Miss Ellingwood.
16 MS. ELLINGWOOD: Thank you. The Commission
17 last year adopted some administrative rules
18 regarding essentially these devices. We refer to
19 them as mobile wagering devices. And that's the
20 terminology that you'll find throughout our
21 administrative rules. When the legislature adopted
22 its language, which essentially codified the
23 current practice, they used the term mobile gaming
24 as opposed to mobile wagering.
25 The changes you will see in the proposed rule

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1 change our rules to mirror the language that the
2 legislature used. So where you see the term
3 "mobile gaming device", that has been changed to
4 act in concert with the statute. Where you see the
5 word "wagering", that term is used to describe the
6 event that's taking place. So, for example, you
7 will use a mobile gaming device to place
8 pari-mutuel horse racing wagers.
9 CHAIRMAN DIENER: Any other questions about
10 the proposed emergency rules?
11 COMMISSIONER SCHAEFER: My only question, and
12 maybe Jon and Brian can answer this. When we're
13 talking about the mobile devices, we are talking
14 about the thing, the system the tote gives you.
15 But what about mobile telephones? I've seen places
16 where the mobile telephones, they can actually
17 program a mobile telephone to do it. Is that
18 possible or?
19 MR. KEELER: Steve, I'm sorry, I couldn't
20 understand.
21 COMMISSIONER SCHAEFER: I'm not sure, when we
22 say wagering device, that's something that the
23 track has to pass out. It does not include an
24 iPhone.
25 MR. KEELER: No, under the current practice

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1 with FastBet Mobile, that system, it can be on the
2 track's tablet or it can be on a device on a phone
3 that operates off the tote system in our intranet,
4 not internet. So, again, like at the Winner's
5 Circle, they will not operate once you go outside
6 the facility.
7 COMMISSIONER SCHAEFER: When we are talking
8 about going from the casino to the track, they have
9 to change the app on the phone basically is what we
10 are talking about?
11 MR. KEELER: I want to confirm with Brian, but
12 I believe that currently FastBet Mobile at Hoosier
13 Park will operate within the casino.
14 BRIAN ELMORE: It will. And we also have
15 pari-mutuel wagering self-serve machines. So we
16 are already pari-mutuel wagering in the casino.
17 MS. ELLINGWOOD: Just to clarify, gentlemen,
18 although the changes made by the legislature would
19 allow this wagering at both the tracks and all the
20 OTBs, Centaur is only authorized to use FastBet
21 Mobile at this time and is only using FastBet
22 Mobile at Hoosier Park and the Winner's Circle
23 downtown. It would have to come back to the
24 Commission for approval to expand the use of
25 FastBet at Indiana Downs or any other OTB.

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1 CHAIRMAN DIENER: I want to clarify.
2 Mr. Elmore, help me a little bit now. If I have a
3 FastBet app in my device and I'm over playing the
4 slot machines in the casino, can I be placing
5 pari-mutuel wagers there?
6 BRIAN ELMORE: Brian Elmore, Centaur. Yes,
7 sir.
8 CHAIRMAN DIENER: Sorry about the silence.
9 This is bothering me. I didn't realize that. I
10 thought the pari-mutuel wagering could only be
11 conducted in a facility licensed by the horse
12 racing commission, that is at the track or the
13 Winner's Circle.
14 And you are telling me I can place a bet on a
15 horse race if I'm at the adjoining casino.
16 BRIAN ELMORE: Yes.
17 CHAIRMAN DIENER: Is that currently the
18 practice?
19 BRIAN ELMORE: Yes.
20 CHAIRMAN DIENER: I did not know that.
21 Mr. Gorajec.
22 JOE GORAJEC: Put the FastBet Mobile aside.
23 When Centaur got their approval from the -- when
24 Centaur was building their racino, one of the
25 things that the gaming commission approved, and Lea

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1 can correct me if I'm wrong, really at our
2 encouragement was to allow for pari-mutuel betting
3 machines on the casino floor or in the casino.
4 Centaur had taken pride in trying to integrate
5 their facility as much as possible. In fact, when
6 they built the facility, they had talked about the
7 side of the racino that faces the track and all the
8 windows they have placed in the facility so people
9 on the casino side can actually watch the horse
10 races. So we thought at the time that it was a big
11 plus that Centaur would try to integrate their
12 casino to the point where they were allowing
13 pari-mutuel wagering to be conducted on the floor.
14 CHAIRMAN DIENER: Let me ask you this: In the
15 casino on that wall, for instance, will there be
16 mutuel clerks?
17 BRIAN ELMORE: We have at times on busy days
18 used mutuel clerks but normally it's self-service.
19 CHAIRMAN DIENER: Self-service machines, you
20 have those in the casino now?
21 BRIAN ELMORE: Yes, sir.
22 CHAIRMAN DIENER: I apologize. I just didn't
23 know that. Other than myself, does any
24 Commissioner have any heartburn, concern about this
25 at all or is it just me?

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1 JON SCHUSTER: Mr. Chairman, if I can just
2 add, at Indiana Downs we had machines in our poker
3 rooms for about six to nine months with the
4 Commission's knowledge and approval as well. It's
5 a practice that has gone on since the inception.
6 We don't have them in there currently, if that
7 helps at all.
8 JOE GORAJEC: Quite frankly, we were
9 disappointed when they took them out.
10 CHAIRMAN DIENER: I apologize. I just didn't
11 realize that had been approved. Any other
12 discussions?
13 COMMISSIONER GRIMES: Mr. Chairman, the
14 only -- I don't have a problem with it. The only
15 question I have is whether or not it purports with
16 the statute, that set of facts.
17 CHAIRMAN DIENER: Can you address that or not?
18 MS. ELLINGWOOD: I can address that in terms
19 of the rules that are before the Commission for
20 consideration today. Those rules, the changes you
21 are considering is just in some ways a superficial
22 adjustment in that it's updating the terminology to
23 comply with what the statute currently reflects.
24 CHAIRMAN DIENER: I don't think the rules
25 before us today have anything to do with location

1 or anything like that.
 2 MS. ELLINGWOOD: Correct.
 3 CHAIRMAN DIENER: I guess the separate
 4 question has already been answered by the
 5 Commission in the past.
 6 Further discussion? Motion to approve the
 7 emergency rules in tab two.
 8 COMMISSIONER BARCLAY: So moved.
 9 COMMISSIONER SCHAEFER: Second.
 10 CHAIRMAN DIENER: All in favor.
 11 THE COMMISSION: "Aye".
 12 CHAIRMAN DIENER: Item three, report from
 13 Centaur regarding construction of additional barns.
 14 Mr. Schuster.
 15 JON SCHUSTER: Jon Schuster with Indiana Downs
 16 and Centaur Gaming. Members of the Commission, I'm
 17 pleased to report to you we are working feverishly
 18 on our property to make our July 29th date for
 19 the additional barns as was represented to the
 20 Commission, but as we have also discussed in the
 21 past, that date will be a close call. We are still
 22 hoping to make it.
 23 Knowing that the permitting had the potential
 24 to delay construction is the reason that we came
 25 before this commission and discussed our stabling

1 agreement with Turfway Park. That agreement with
 2 our friends at the HBPA has been a resounding
 3 success. Whether we end up being beyond July 29 or
 4 not, it's working well now. That is our
 5 contingency plan to use that as long as necessary
 6 if we don't make the date.
 7 The IDEM permitting certainly appears to be
 8 going on a positive track. We hope and believe
 9 that in the very near future we will have that
 10 completed. At that point in time we can begin
 11 erecting going up. Currently, we are working on
 12 all the site work. If you're out on the property,
 13 you can't miss it. When you first make the turn to
 14 come in, all that material that's up there is being
 15 moved to the back.
 16 All the infrastructure and pads and so forth
 17 are well underway. We have been doing everything
 18 we can once we got the additional permits from the
 19 city in place. Those are all positives. No
 20 guarantee on the IDEM approval, but we believe we
 21 are on track for that to go well.
 22 In addition to the site work that we are
 23 doing, one of the other benefits in addition to
 24 getting the barns and all those things in the
 25 proper place in the proper time, this project has

1 taken on a bit of additional benefit to the City of
 2 Shelbyville. We have had a longstanding bothersome
 3 set of variances on some ordinances for gravel
 4 parking lots. In this project -- I will show the
 5 map here in just a moment to give you a flavor for
 6 it -- we are harvesting some of the material to
 7 build that pad up. Many of you may remember, we
 8 sit in a floodplain out there. And we have to
 9 elevate the property some.
 10 By harvesting the material from up front, that
 11 will eliminate some of the ordinance variances that
 12 have been troublesome for the City of Shelbyville.
 13 So we are kind of killing two birds with one stone.
 14 It's very positive.
 15 So I'm pleased to report we are on track.
 16 Everything that is within our control is on target.
 17 And, hopefully, the things that aren't in our
 18 control will be soon, and we'll be on our way.
 19 I will briefly show you. I will try to stay
 20 as brief as I can. To give you an idea, the
 21 harvesting of the material are on these three
 22 parking lots here. The City of Shelbyville has
 23 always had or recently had an ordinance against
 24 gravel parking lots. We are annexed to the City of
 25 Shelbyville. So these have required a variance

1 every year since 2009 with many promises made along
 2 the way that things would be different and changed
 3 in the short order. Here we are in 2013 finally
 4 with Centaur's motion on these barns, we are
 5 getting some of that cleaned up. This material is
 6 harvested. The new barn area is right up in this
 7 area. Back here will be connected within our
 8 security fence with still one access for security
 9 control.
 10 That's just a larger version of that plat,
 11 which looks vastly different now as the pads go in.
 12 These are some elevations for the barns. The barns
 13 we are building are called MD barns, a company out
 14 of Arizona. They are different than the style we
 15 have now. They are largely metal and will have a
 16 lot longer longevity. The color scheme will be
 17 different.
 18 They are very popular with the horsemen. They
 19 are in use at Arlington Park, Woodlands, I believe
 20 Lone Star Park, several racetracks. These are just
 21 some stall shots.
 22 And this gives you a sense of the layout.
 23 This is our security gate. And this was the plat
 24 that I mentioned where we are putting barns. They
 25 will be laying out this way. In this year we are

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1 building two. As the Commission may recall, they
2 will be the back two. All the pads, all the
3 infrastructure is being laid in now. And for some
4 capital reasons, we are working on the next two for
5 next year, which I believe we have promised by
6 April 14th, if I'm not mistaken. We have an
7 earlier target date than that, but that's the date
8 we have committed to. And we believe we will be on
9 target for that, no problem. All the
10 infrastructure will be set. Just the erection on
11 these last two will go up in the final months at
12 that time.
13 With that, I would answer any questions that I
14 can.
15 CHAIRMAN DIENER: Questions for Jon?
16 COMMISSIONER SCHAEFER: Jon, are you going to
17 pave those parking lots?
18 JON SCHUSTER: No, actually those parking
19 areas that we are talking about are actually going
20 to be returned to grass. They will go back to
21 their natural state.
22 COMMISSIONER SCHAEFER: We did have a letter
23 kind of questioning the restroom facilities on the
24 barns. Have you worked that problem out with the
25 HBPA?

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1 JON SCHUSTER: I'm going to say that I'm not
2 aware of having worked it out yet, but we certainly
3 can. I was not aware that there was a restroom
4 issue with the new barns.
5 BRIAN ELMORE: If I may, Commissioner
6 Schaeffer, we have placed out there strategically
7 some porta potties that will help remedy this for
8 this year. And we will be in discussion with our
9 partners out there, the horsemen, going forward
10 regarding dormitories and additional restrooms and
11 things of that nature.
12 CHAIRMAN DIENER: Other questions? Jon,
13 refresh my memory, when it's all said and done, we
14 will have how many stalls?
15 JON SCHUSTER: 304.
16 CHAIRMAN DIENER: No, in total.
17 JON SCHUSTER: We will be in the vicinity of
18 just under a thousand.
19 CHAIRMAN DIENER: Just under a thousand
20 stalls. Thank you very much.
21 JON SCHUSTER: Thank you.
22 CHAIRMAN DIENER: Good luck.
23 The next item is the consideration of
24 emergency rule on eligibility. And this has to do
25 with the trainer continuing education, which was

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1 discussed previously by the Commission. Joe, I
2 will turn this one over to you.
3 JOE GORAJEC: Sure. As the Commissioners will
4 remember, this came up at the last Commission
5 meeting when Commission staff was disappointed that
6 the California Horse Racing Board was unable to
7 place their continuing ed modules online for our
8 use. The California Horse Racing Board has done
9 really an outstanding job working with the
10 University of California at Davis to put together
11 some really high quality training modules, but for
12 various reasons, the timing of placing them online
13 for industry participants to utilize has moved back
14 and back.
15 When we talked about this at the last
16 Commission meeting, we were hopeful that by July 1
17 that these particular modules would be online.
18 That doesn't look like it's going to be the case.
19 And the way our program is structured, it really
20 puts a significant minority of horsemen at a
21 disadvantage not to be able to use the online
22 component in order to gain their certification.
23 So what I would recommend to the Commission is
24 that they move the date back yet again from 2013 to
25 2014.

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1 Now, there's another part of this rule
2 amendment that stems from, Mr. Chairman, you had
3 asked the industry to comment on the proposed rule
4 at the last Commission meeting. And we did receive
5 a comment. That was from Centaur. That comment is
6 in your packet. And they are asking for certain
7 exceptions to the trainer continuing ed
8 requirement.
9 Also, in your packet is a memo that the
10 Commission staff has put together reviewing the
11 request. And the Commission staff's position is
12 that we are not recommending any of the exceptions.
13 Having said that, we are not against some of the
14 exceptions that are being proposed. There are a
15 few as outlined in the memo that you have before
16 you that we think are a bit overreaching. And we
17 suggest that if you are inclined to allow for some
18 exceptions, there are some that we would
19 respectfully suggest that you don't approve.
20 If you have any questions about my memo on the
21 subject, I will be glad to respond to those.
22 However, the party that is the moving party on the
23 exceptions is Centaur.
24 CHAIRMAN DIENER: Thank you. I'm going to ask
25 Mr. Elmore, Mr. Moore -- is Kevin here? I don't

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1 see Kevin. Kevin had proposed eight exceptions to
2 this continuing education requirement, two of which
3 Mr. Gorajec took exception to. One is that if you
4 trained a winner of any graded/group stake, you
5 don't have to complete a continuing education
6 requirement. The second one is if you had a
7 trainer's license for 20 years or more, you don't
8 have to comply with the continuing education
9 requirement.

10 And I just wondered whether or not Centaur
11 still wants to go forward with those exceptions to
12 continuing education or whether you're willing to
13 accept those waivers that are currently in the
14 proposed rule.

15 BRIAN ELMORE: Chairman Diener, Kevin did make
16 these suggestions to staff, but if the Commission
17 feels it's appropriate to delete number five and
18 number seven, we will pull that from that.

19 CHAIRMAN DIENER: Thank you. I want to make
20 sure I understand what the staff is proposing here.
21 You're in favor of these exceptions or you still
22 would have rather have no exceptions, until we get
23 to next year is what I'm saying.

24 JOE GORAJEC: I'm comfortable with the
25 exceptions. They're not my proposal. The status

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1 quo would be fine with me. Having said that, the
2 exceptions that are being proposed, other than the
3 two that I've pointed out, I'm comfortable with.

4 CHAIRMAN DIENER: And the exceptions that
5 you're comfortable with are those that are outlined
6 in the proposed emergency rule.

7 JOE GORAJEC: Exactly, yes.

8 CHAIRMAN DIENER: Further questions or
9 comments from any Commissioner?

10 COMMISSIONER SCHAEFER: No. Move we accept.

11 CHAIRMAN DIENER: Second.

12 All in favor of the emergency rule as proposed
13 on eligibility and trainer education, please affirm
14 or say "aye".

15 THE COMMISSION: "Aye".

16 CHAIRMAN DIENER: Opposed.

17 (No response.)

18 CHAIRMAN DIENER: Motion carries. Next, we
19 have Commission rulings that we've had from
20 March 1st through April of this year.

21 MS. NEWELL: Yes, Chairman Diener. You guys
22 have had a minute to review them. If you have any
23 questions, Joe or I can certainly address them.

24 CHAIRMAN DIENER: Any questions from any
25 Commissioner? Hearing none, thank you.

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1 Item six is consideration of approving an
2 additional administrative law judge. As you'll
3 recall, we approved an additional law judge at our
4 last meeting or maybe it was the meeting before,
5 Robert Hagemier. Bo is not in a position to serve
6 at the current time, and we do need a third
7 administrative law judge.

8 And Jim Lauck, former Commissioner of the
9 horse racing commission and outstanding lawyer here
10 in town, has agreed to serve as administrative law
11 judge. And I can say without qualification I would
12 highly recommend him for consideration by the
13 Commission to be appointed as our third
14 administrative law judge.

15 COMMISSIONER GRIMES: So moved.

16 COMMISSIONER SCHAEFER: Second.

17 CHAIRMAN DIENER: All in favor.

18 THE COMMISSION: "Aye".

19 CHAIRMAN DIENER: Thank you.

20 Next item is consideration of a settlement
21 agreement on a disciplinary action with Gary
22 Patrick. Miss Ellingwood.

23 MS. ELLINGWOOD: Thank you. During the 2012
24 racing season, four horses which were trained by
25 Mr. Patrick, who is a licensed owner/trainer,

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1 tested positive for the presence of a prohibited
2 substance. Those positives occurred within a
3 two-week period. Mr. Patrick admitted to
4 aggravating circumstances; specifically that the
5 drug was administered on race day.

6 Staff and Mr. Patrick entered into settlement
7 negotiations and arrived at the terms outlined in
8 the settlement agreement included in your packet.

9 Staff asks that the Commission ratify that
10 settlement agreement under which Mr. Patrick will
11 serve a 90-day suspension and will forfeit the
12 purses earned by the horses who tested positive
13 with a prohibited substance. Mr. Patrick has also
14 agreed to pay a \$10,000 fine. He currently holds a
15 probationary license and has at this point had no
16 further disciplinary issues.

17 CHAIRMAN DIENER: Questions from any
18 Commissioner? Hearing none, I will entertain a
19 motion to approve the settlement agreement as
20 presented.

21 COMMISSIONER GRIMES: So moved.

22 CHAIRMAN DIENER: Second.

23 All in favor.

24 THE COMMISSION: "Aye".

25 CHAIRMAN DIENER: Settlement agreement is

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1 approved.
2 Item number eight, amendment to the tote
3 contract. Centaur, Mr. Keeler.
4 MR. KEELER: Thank you, Mr. Chairman, Members
5 of the Commission. My name is John Keeler. I'm
6 general counsel of Centaur. And the contract
7 before you is required to be approved by the
8 Commission because it involves a tote contract,
9 which under your rules requires Commission
10 approval.
11 This has to do with the FastBet Mobile program
12 as we talked about earlier. It is operated through
13 our tote vendor. And the tote vendor, since this
14 was somewhat of an experimental program, had been
15 providing the service without charge. And near the
16 end of last year, it decided it should be paid for
17 the service. This is the contract that results.
18 You will note there is an exhibit to this
19 contract that has not only the price but provides
20 where, what locations the vendor will provide the
21 service for for that particular price. That
22 includes all of the Centaur facilities. That was
23 Centaur trying to use a sharp pencil and negotiate
24 the best deal it could in the event that FastBet
25 Mobile was authorized beyond Hoosier Park and the

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1 Winner's Circle.
2 Be happy to answer any questions.
3 CHAIRMAN DIENER: The exhibit would cover all
4 facilities that Centaur has, all licensed
5 facilities.
6 MR. KEELER: Yes.
7 CHAIRMAN DIENER: But the only approval you
8 have at the current time is Hoosier Park's track in
9 Anderson and the Winner's Circle.
10 MR. KEELER: Yes, sir.
11 CHAIRMAN DIENER: We are not approving an
12 expansion of FastBet; is that correct?
13 MR. KEELER: That's correct. With respect to
14 Indiana Grand, it has a different tote provider so
15 this service can't work there.
16 COMMISSIONER SCHAEFER: John, I'm sure all
17 precautions are taken as far as the likelihood of
18 hacking into the system, but who is liable for it
19 if it should happen, the tote or the track itself?
20 MR. KEELER: In the event what would happen?
21 COMMISSIONER SCHAEFER: Some kind of hacking
22 operation into the system.
23 MR. KEELER: Yeah, I think it would probably
24 depending on how and where it happened, a good
25 chance both of us would end up being responsible.

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1 But I would say that I know Churchill uses some
2 pretty sophisticated encrypting equipment and
3 technology to try to make sure that doesn't happen.
4 They have used this system in connection with not
5 only at the Winner's Circle in Indiana but at a
6 number of their other tracks and with their Twin
7 Spires program. They've not had any problems with
8 it.
9 COMMISSIONER GRIMES: Question: Is insurance
10 a possibility to cover something like this, which
11 depending upon the ability of the hackers could be
12 significant?
13 MR. KEELER: Commissioner Grimes, I'm sure
14 insurance is available at some price. I can't tell
15 you whether we have that or not, but it's a great
16 question. And I will certainly look into that
17 because if we don't, that might be some coverage
18 worth trying to see if it's affordable.
19 CHAIRMAN DIENER: Any other questions from the
20 Commissioners? Mr. Keeler, this is -- I don't want
21 you to take this personally, but this bothers me
22 because I was a participant in this for a number of
23 years.
24 We have a rule, 71 IAC 11-1-12(a)(3), which
25 specifies there are four contracts; management,

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1 concession, tote, and horsemen's which cannot be
2 executed by a permit holder, Centaur, without the
3 prior approval of this Commission. For 18-plus
4 years we have never enforced that rule. I'm of the
5 opinion if we have a rule, we should abide by it.
6 If we are not going to abide by it, let's get rid
7 of the rule.
8 So I would be open to a future consideration
9 by the track to present an argument that that rule
10 is no longer necessary, but as long as we have that
11 rule in effect, then I think it would be
12 appropriate, and I will do it for you, is to waive
13 that rule. And we will act upon the amendment to
14 the tote contract.
15 MR. KEELER: Okay.
16 CHAIRMAN DIENER: This is no fault of Centaur.
17 This Commission never enforced it. Commission
18 staff never enforced it, but it's been in our rule
19 book forever. So I just want to put you on notice
20 if you want to get rid of that rule, make the
21 argument at a future date. Otherwise, I hope you
22 will comply with it.
23 MR. KEELER: Mr. Chairman, I appreciate that.
24 I would point out paragraph 9.12, you know, with
25 respect to maybe not to the letter but to the

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1 spirit of that when it says subject to, contingent
2 upon, shall be of no force and effect until
3 approved by the Commission.
4 CHAIRMAN DIENER: The wording says no
5 execution.
6 MR. KEELER: I understand.
7 CHAIRMAN DIENER: Thank you. So with the
8 request for the waiver of our rule, is the
9 Commission prepared to act on the amendment to the
10 tote contract?
11 COMMISSIONER SCHAEFER: I so move.
12 CHAIRMAN DIENER: Second.
13 All in favor.
14 THE COMMISSION: "Aye".
15 CHAIRMAN DIENER: Thank you. Consideration of
16 a Commission policy on the use of state-directed
17 funds by horsemen's associations for scholarship.
18 And we have got some -- we've had some discussion.
19 And I know we have a comment from the Indiana
20 Standardbred Association. But, Mr. Gorajec, why
21 don't you go ahead and explain the proposed policy
22 before us today in tab nine.
23 JOE GORAJEC: If you don't mind, Mr. Chairman,
24 I would like to punt this to Holly Newell.
25 MS. NEWELL: Chairman Diener, Commissioners,

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1 you will recall that this issue has been on the
2 Commission's radar for some time. Chairman Diener
3 first addressed the horsemen's associations
4 scholarship program at the October 12, 2012 meeting
5 of the Commission when the horsemen's associations
6 presented their applications for registration.
7 At the time, Chairman Diener said "I have a
8 personal concern about linking scholarship money to
9 horse racing. I want people on notice that I have
10 problems with scholarship monies in effect for
11 themselves being somehow equated to be in the best
12 interest of horse racing."
13 The Chairman further stressed the point at the
14 February 2013 Commission meeting stating
15 "Scholarships not connected to horse racing causes
16 concern." With that the Chairman directed staff to
17 work on guidelines for appropriate scholarship
18 expenditures for state-directed funds.
19 The Commission staff drafted proposed criteria
20 in April. The proposed criteria identified 14
21 qualifying areas of study for students or
22 reasonable candidates for horsemen's association
23 funds. The list was not exhaustive and is included
24 in your packets.
25 Staff circulated the drafts to the horsemen's

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1 groups representatives asking for input within 30
2 days. In addition to itemizing areas of study, the
3 proposed policy also states "In an effort to ensure
4 statutory compliance, those associations which
5 earmarked funds for scholarships must be able to
6 show that the recipient's studies are directly
7 related to horse racing in Indiana."
8 The only response to the staff's proposed
9 criteria came from the ISA. You have a copy of the
10 letter drafted by Mr. Young in your packets.
11 Specifically, the ISA requested that the previously
12 stated policies be modified as follows:
13 In an effort to ensure statutory compliance,
14 those associations wishing to earmark funds for
15 scholarships must be able to show that the
16 recipient's studies or career objectives are
17 directly related to horse racing in Indiana. The
18 key phrase the ISA wanted to add is "or career
19 objectives". The inclusion of the phrase modifies
20 the policy with an inclusive focus on area of study
21 to create a policy that allows for a much broader
22 pool of potential recipients for these
23 state-directed funds.
24 In considering the ISA's request, the
25 Commission staff is concerned that the addition of

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1 the phrase "or career objectives" results in a type
2 of broad-based awarding of scholarships that
3 initially drew Chairman Diener's concern. With
4 that phrase added, it is conceivable that a student
5 can enroll in a school and study philosophy or
6 poetry with the aid of state-directed funds awarded
7 to them by the ISA or the QHRAI so long as the
8 students say they have a career objective that is
9 directly related to horse racing in Indiana.
10 Poetry and philosophy are worthwhile pursuits,
11 but any state-directed money that's awarded by a
12 horsemen's group is more reasonably awarded to a
13 student who is going to study equine health or go
14 to farrier school or attend any of the other
15 examples of qualifying areas of study identified in
16 our policy.
17 Without the explicit nexus, the awarding of
18 scholarships is quite questionable, particularly
19 any such awards made to students who are related to
20 board members and our constituency. It is the
21 Commission staff's position that this additional
22 phrase "or career objectives" should not be added
23 to the criteria. The addition of the phrase
24 emasculates the entire purpose of articulating
25 criteria.

1 CHAIRMAN DIENER: Thank you, Miss Newell.
 2 Before we have any further discussion, Mr. Young,
 3 do you have any additional comments on behalf of
 4 the ISA?
 5 MR. YOUNG: Thank you, Mr. Chairman, my name
 6 is Roger Young, attorney for Indiana Standardbred
 7 Association. I don't exactly agree with the
 8 comment that inclusion of our language would
 9 completely emasculate the policy. I think really
 10 if we look at the proposed guidelines on the back
 11 under item two, scholarship applicants shall
 12 include a one-page essay that answers the question
 13 what are your education goals and how do you plan
 14 to apply your education to the horse racing
 15 industry in Indiana upon graduation. It seems as
 16 if that requirement somewhat contemplates the
 17 inclusion of our language and somewhat contemplates
 18 possibly a broader policy.
 19 I guess I would also have to say that I'm hard
 20 pressed to think of a circumstance where an
 21 applicant's majoring in philosophy could ever
 22 through essay or otherwise show a good nexus
 23 between those studies and horse racing in Indiana.
 24 Another way possibly to address this would be
 25 to put something in the rule that would say or if

1 the recipient's proposed courses are not facially
 2 or obviously horse racing related, then the
 3 applicant must demonstrate how the courses of study
 4 that he or she is taking in some way relate to
 5 horse racing in Indiana. We get to the same place,
 6 but maybe that sort of language might be a little
 7 better.
 8 If we limit scholarships only to applicants
 9 taking courses that are obviously horse racing
 10 related, then how do we fund the electives or can
 11 we fund electives? In other words, a student may
 12 be majoring in, let's say, undergrad equine health
 13 and/or science or nutrition, but the courses in
 14 that major area of study, you know, obviously,
 15 those are going to be directly related, but what do
 16 we do with the electives that every student is
 17 going to be taking? Do we not fund those?
 18 In other words, when we get requests to fund
 19 tuition, do we only fund a part of the student's
 20 tuition only for those courses that are facially
 21 directly related to horse racing? I think you are
 22 always going to have problems at any level trying
 23 to ensure that the funds are going to recipients
 24 who are actually going to participate in horse
 25 racing.

1 It's kind of like making a wager. You are
 2 kind of betting on an outcome. You are betting
 3 that a student is going to eventually finish his
 4 education and enter the horse racing industry. You
 5 never know that for sure. You don't know that for
 6 sure if the student's in law school taking equine
 7 law courses. He may graduate with full intentions
 8 of being involved in the industry but not be able
 9 to find work and end up practicing real estate law
 10 or criminal law. Who knows?
 11 So I think in my letter I tried to point out
 12 that the ISA agrees in general and in many areas
 13 specifically with the Commission's position in this
 14 matter. We just think that limiting the qualifying
 15 criteria or determining qualifications based only
 16 on course selection and nothing else is just a bit
 17 narrow, and it is going to exclude, okay, a number
 18 of worthy applicants from the opportunity to
 19 receive financial assistance.
 20 So possibly the language that I proposed may
 21 not be acceptable, but we would still like the
 22 Commission to consider expanding that language to
 23 in some way or another take into account the stated
 24 career objectives of the applicant.
 25 Other than that, as my letter indicates, the

1 ISA is pretty much in line with the Commission's
 2 proposed rule. And, in fact, we in the past have
 3 submitted our scholarship application forms as part
 4 of our registration application materials. They
 5 are before you. We have also amended the
 6 applications going forward bringing further in line
 7 with the Commission's policy. I think you will see
 8 when we submit later this summer that our
 9 application and our selection criteria are very
 10 much in line with the Commission's objectives.
 11 So we would just like the Commission to
 12 consider giving a little expansion to the rule, not
 13 making it quite so narrow. Again, it is
 14 troublesome in terms of what we do with electives.
 15 Majors can change. Many things can change. So
 16 that's our position.
 17 CHAIRMAN DIENER: Thank you. Questions from
 18 the Commission for Mr. Young?
 19 COMMISSIONER GRIMES: Mr. Chairman.
 20 Mr. Young, I agree with the difficulty of trying to
 21 put this in terms of a policy. But from a
 22 practical standpoint, would it be of assistance to
 23 require a certain number of required courses or
 24 hours in the area that policy is directed toward?
 25 Right now it appears that there is no requirement

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1 that X number of credits be achieved to validate
2 the entitlement here. So is that something that
3 could be explored along with the college the
4 student's intending to attend, and its
5 concentration of the type of courses that it has in
6 the equine area? I mean, aren't these some things
7 that could help improve the policy and get to the
8 point of whether there is indeed a commitment to an
9 equine program?

10 MR. YOUNG: That's a very good point. That
11 brings up something that I hadn't thought about
12 either, which is colleges and universities will
13 define what it takes to major in a particular area.
14 And so I don't know if schools -- I'm looking at
15 undergraduate. I would assume that schools will
16 tell a student what courses they must take in order
17 to seek a major in equine health and/or science or
18 nutrition. So to some extent I think a number of
19 courses in that field are going to be determined by
20 the school.

21 But on the other hand, this is the point that
22 I think you are bringing up, or at least that I
23 took from your comments, is what do you do with a
24 student who, say, is majoring in marketing wanting
25 to work for a racetrack but is taking a number of

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1 elective courses that are right out of this list
2 not as his major but simply electives to round him
3 out and make him more qualified to enter the
4 industry. I don't know but I think it's a good
5 point.

6 COMMISSIONER GRIMES: It raises another
7 question. Is this policy directed at a student
8 majoring or having a substantial number of courses
9 in the area? I mean, has that been determined?

10 MR. YOUNG: I don't know the answer to that.

11 COMMISSIONER GRIMES: Is there the requirement
12 they major in?

13 MR. YOUNG: I don't know the answer to that.
14 We need to keep in mind the goal here. The goal is
15 not in and of itself the college degree and what's
16 on that piece of paper. The goal is to educate and
17 introduce qualified individuals into the horse
18 racing industry. That's the goal is to create
19 careers for people once they graduate. The goal
20 here is not help someone get a piece of paper that
21 says major in equine law. That's not the goal, not
22 the piece of paper. The goal is educating that
23 individual so that they can be a contributing
24 person to the horse racing industry.

25 COMMISSIONER GRIMES: Doesn't there have to be

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1 some commitment to the whole purpose and a balance,
2 if you will? I think the idea is to aid the
3 industry and hope to provide for its welfare in the
4 long run. So shouldn't students who are receiving
5 these funds have some kind of commitment in terms
6 of course work being substantial enough to create a
7 balance between what their ultimate career goals
8 might otherwise be but they want these funds so
9 shouldn't there be some kind of educational
10 commitment to that?

11 MR. YOUNG: There should be. There absolutely
12 should be, but to totally ignore a student's stated
13 career objective, I think creates a too narrow
14 circumstance. Now, maybe there could be a
15 hybridization combination that your stated career
16 objective must in some way relate to the industry
17 and also you must demonstrate commitment to that
18 objective by at least taking some courses that
19 directly relate to the industry but maybe not
20 necessarily major in a course of study directly
21 related to the industry.

22 You have minors. You have dual majors.
23 College has split out the requirements so much.
24 You have dual majors. You have dual minors. You
25 have a number of elective courses.

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1 Again, I will go back to the example of the
2 kid that's a marketing major but wants to work for
3 racetracks and takes, you know, 10, 12 hours of
4 electives that are directly related. It seems to
5 me if that student writes an essay and says I want
6 to go into the industry, if you look and see that
7 he's taking those electives, you pretty well
8 believe he is telling you the truth at that time.
9 Now, it's like making a wager. Once he
10 graduates, who knows. He may end up working for
11 something totally unrelated but maybe through no
12 fault of his own.

13 So you raise a very good point. It's slippery
14 and is hard to get a handle on. I and the ISA
15 would like to see it broadened just a little bit so
16 we can at least consider not only what an applicant
17 is taking but what an applicant is telling us they
18 want to do in the future with their education.

19 CHAIRMAN DIENER: Further questions from
20 Mr. Young?

21 COMMISSIONER BARCLAY: Actually, my concern is
22 actually a little bit different which is the phrase
23 in here that says the recipient's studies are
24 directly related to horse racing in Indiana. How
25 do you assure that the scholarship program is for

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1 the benefit of racing in this state, especially
2 when we approve subsidizing education outside the
3 state? How do you ensure the students come back to
4 Indiana is my primary concern.
5 That's an age old problem I think the Governor
6 and the general assembly studied for a long time.
7 I'm not sure it's one we are going to solve. But
8 I'm sure the intent of the program was not to use
9 Indiana dollars to educate students who then turn
10 around and works in another state or work for horse
11 racing programs that compete with Indiana. That
12 would be my larger concern, but unfortunately I
13 don't have a solution for it.
14 CHAIRMAN DIENER: I don't either because the
15 standard is what's best for the horse racing
16 interests of Indiana, and it seems to restrict us
17 geographically. Joe, Holly, you've heard. Do you
18 have any changes in your recommendations as to your
19 scholarship criteria, either one of you?
20 JOE GORAJEC: I will take first crack at it.
21 I think Roger has given a very well articulated
22 presentation of the ISA's views. Quite frankly, I
23 don't find it compelling. If the language that the
24 ISA proposes is going to be adopted as part of our
25 policy, then practically speaking no one is going

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1 to be ineligible to receive these scholarships.
2 All you would have to do is say, okay, I'm going to
3 be in the racing business. I'm going to be in
4 marketing. I'm going to be in business. You know,
5 maybe philosophy is a reach. Poetry may not be. I
6 want to major in poetry, and I'm going to write
7 poems about horse racing. You know, it sounds way
8 out there, and it is way out there but that's just
9 an example.
10 Students are going to want their education
11 funded. The ISA has a lot of funding that they
12 made available to these students. And if all you
13 have to say is that I have career goal in horse
14 racing, and all you have to do is write an essay to
15 say that my career goal, even though it's unrelated
16 directly to horse racing, your courses of study are
17 not directly related to horse racing, you make
18 yourself eligible for thousands and over the course
19 of four years tens of thousands of dollars. I
20 think it's just rife for potential abuse.
21 CHAIRMAN DIENER: Miss Newell, do you have any
22 additional comments?
23 MS. NEWELL: Yes. Chairman Diener, I just
24 want to remind us that the issue was initially
25 raised because of the concerns of these being

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1 state-directed funds. And that's why we think the
2 explicit nexus is needed. As stewards of these
3 funds we need to make sure they really and truly
4 are in the best interest of horse racing in
5 Indiana.
6 Additionally, the policy doesn't use the word
7 major or minor. It refers to qualifying areas of
8 study and studies being directly related. It
9 doesn't say you have to have such and such a major.
10 You have to prove your area of study is something
11 that's listed here or another one that we maybe
12 haven't contemplated that is clearly related.
13 CHAIRMAN DIENER: I assume with any policy
14 this is an evolving thing. It is dynamic. There
15 may need to be tweaks to this as we move along.
16 And also there may be a good justification in the
17 horsemen's registration applications for exceptions
18 to the policy. It's something that has some
19 specific criteria we lacked before. And I think it
20 is a policy we will be able to tweak it as
21 circumstances prevail in the future.
22 My question to the Commission, are the
23 Commissioners ready to act on this today?
24 MR. YOUNG: If I may, Mr. Chairman, I would
25 like to briefly respond to what Holly said.

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1 CHAIRMAN DIENER: Go ahead.
2 MR. YOUNG: We look for guidance from the
3 Commission. As you said these rules, sometimes
4 they are a little vague. So a concern is, and I
5 think she pointed it out very well, so how many of
6 these courses must an applicant take before they
7 become eligible if their major as defined by the
8 university is not something that on its face is
9 going to tie to the industry, then will one course
10 in the history of harness racing in the United
11 States suffice to get them into that group. Will
12 it take two courses? Will it take ten hours a
13 year, a third of their load?
14 See, if I understand -- and again what is
15 funded, only those courses that directly tie to the
16 industry or the cost of tuition for one semester?
17 These are concerns that we will have, and we will
18 look for guidance in interpretation from staff
19 whose job it is to help to interpret these rules,
20 but I just want to throw that out. If major is not
21 the criteria, then -- well, I think hopefully I
22 have expressed my concern on that.
23 COMMISSIONER GRIMES: Mr. Chairman, I agree
24 with staff that to this point there is no
25 compelling reason to go against what is being

1 proposed although there are all kinds of things
 2 that can be considered, for example, paying just
 3 for the courses that are in the area, courses in
 4 terms of the cost of credit hours and the books or
 5 whatever, as this student goes forward as opposed
 6 to committing an entire scholarship with the
 7 possibility that the student will take these
 8 courses and do the other things that we would
 9 expect. So, I mean, it's a good idea, but I think
 10 that it certainly needs a lot of tweaking to carry
 11 today that what has been suggested by staff is not
 12 in the best interest of the industry and the people
 13 of Indiana. I think you have carried that.

14 CHAIRMAN DIENER: My whole concern with this
 15 area over the last several months has been a
 16 personal desire on my part to put some fences
 17 around the expenditure of funds that are state
 18 directed that come from slots. There has to be
 19 some nexus to the best interest of horse racing in
 20 Indiana. Previously it had been pretty loose.
 21 Scholarships had been granted with really no
 22 criteria linking them to horse racing. So this is
 23 a first step.
 24 I do think as Commissioner Grimes mentioned
 25 and Mr. Young mentioned, we are going to have to

1 tweak this to live with it, make changes to it,
 2 evolve it, but I really want to get some fences
 3 involved right now when it comes to the use of
 4 state funds. So is the Commission prepared to act
 5 today on that?

6 COMMISSIONER SCHAEFER: I just have one
 7 question for Roger. I don't think we want to hang
 8 anybody out to dry. You probably know the students
 9 that are involved in this. I just want to clarify
 10 that those students are still going to be qualified
 11 going forward. We don't want to have somebody in
 12 their third year of college and then say, no, you
 13 don't get money.

14 MR. YOUNG: I don't know the answer to that.
 15 I would assume so. The reason I say I would assume
 16 so, in our applications as they have always
 17 existed, we require a student to demonstrate that
 18 nexus. We want an essay. First, given our
 19 application criteria, I mean, the kid has to have
 20 some relationship, family or otherwise, to the
 21 industry to even be considered, either a member of
 22 the ISA, a license holder, or the child of an ISA
 23 member or license holder. So there is a
 24 gatekeeping function right at the very get-go.
 25 So I'm trying to answer your question. I

1 would assume that those students that are now
 2 receiving funds and hoping to receive them in the
 3 future will still qualify under this policy if you
 4 adopt it. I assume that but I can't tell you that
 5 for an absolute fact.

6 CHAIRMAN DIENER: Mr. Gorajec.

7 JOE GORAJEC: Roger, could you repeat what you
 8 said about the gatekeeping function?

9 MR. YOUNG: In our applications -- and we have
 10 two levels. We have what's called college
 11 assistance, and we have scholarships. But, for
 12 example, the scholarship requirements applicant,
 13 parent, grandparent, or guardian must be a 2013 ISA
 14 member and hold either a 2013 Standardbred license
 15 or USTA membership.

16 JOE GORAJEC: And if they don't meet that
 17 criteria, they're not eligible?

18 MR. YOUNG: Absolutely not.

19 JOE GORAJEC: Quite frankly --

20 MR. YOUNG: Then the second one is they must
 21 be an Indiana resident.

22 JOE GORAJEC: The resident is fine. Excuse
 23 me, but just think about this, you have six million
 24 people who live in Indiana. And you have an
 25 absolutely super duper tiny fraction of them that

1 would like to be in the horse racing industry. And
 2 what the ISA has done is they really have done a
 3 good job of "taking care of their own". But quite
 4 frankly, I would think my opinion, and this is just
 5 my personal opinion, that the scholarship money
 6 should be available to all students or all
 7 potential students that have an interest regardless
 8 if they are related to an ISA member or not. What
 9 does having your grandfather be an ISA member and
 10 race have anything to do with a young person's
 11 desire to work in the horse racing business?
 12 Quite frankly, I'm glad we're exploring and
 13 drilling down a little bit more into these ISA
 14 policies. But, quite frankly, I think that's just
 15 simply a bad policy.

16 MR. YOUNG: I want to take issue with what
 17 Mr. Gorajec said. This was not put in there to
 18 protect our own. This was put in there to perform
 19 a gatekeeping function that we don't get every Tom,
 20 Dick, and Harry off the street that has absolutely
 21 no connection, family or otherwise, applying for
 22 scholarships. This was put in there to ensure that
 23 a nexus the Commission is concerned about exists to
 24 some extent. But there is a lot more to it than
 25 just that one criteria.

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1 Again, these have always been submitted with
2 our registration applications. So I guess I don't
3 know what to say. I see that requirement
4 performing a completely different function than
5 what Mr. Gorajec suggests that it does serve.
6 CHAIRMAN DIENER: That discussion, that issue
7 is outside the scope of what we have before us
8 right now.
9 MR. YOUNG: I understand.
10 COMMISSIONER GRIMES: Mr. Chairman, may I ask
11 Mr. Young.
12 Mr. Young, do we have a problem of students
13 who are presently relying upon these scholarships
14 and they are in school and progressing and the
15 scholarships are being paid? Is that a problem
16 that we have?
17 MR. YOUNG: Well, I don't think so. This is
18 an annual application process. If you get it as a
19 freshman, there's no guarantee you will get it as a
20 sophomore, junior, or senior.
21 COMMISSIONER GRIMES: I understand that. I'm
22 trying to find out if we have people in the process
23 and the expectation that these funds are going to
24 be there.
25 MR. YOUNG: I'm certain we do. I'm certain we

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1 do. That's kind of what Mr. Schaeffer was asking.
2 COMMISSIONER SCHAEFER: That's what I was
3 going to suggest is we grandfather those people in
4 or not make them subject to this policy if they
5 have already been given the funds.
6 MR. YOUNG: But my belief is, and, again, it's
7 a belief only. I can't verify it. My belief is
8 those individuals who are now receiving scholarship
9 funds would likely qualify to receive funds in the
10 future under the amended rule, but I can't tell you
11 that for sure. There may be a marketing major out
12 there that said I want to work for racetracks, and
13 we have funded them. There may be.
14 CHAIRMAN DIENER: But the ISA is only giving
15 one year commitments?
16 MR. YOUNG: Yes.
17 CHAIRMAN DIENER: If a student has an
18 expectation you are going to fund it for years two,
19 three, and four, that's merely an expectation.
20 There is no commitment at all.
21 MR. YOUNG: Yes, there will be no reason for
22 them to have that based on our application. The
23 last item is applicant may reapply each year but
24 must request an application on an annual basis. So
25 annually these students are looked over. And so

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1 grandfathering is, I suppose, a thought, although
2 as you say, Mr. Chairman, there should be no
3 expectation.
4 CHAIRMAN DIENER: You don't grandfather if you
5 only give a one-year commitment.
6 Is the Commission prepared to make a decision
7 on this matter? I would like to move forward if we
8 are.
9 COMMISSIONER SCHAEFER: I would make a motion
10 that we accept the rule as written.
11 COMMISSIONER GRIMES: Second.
12 CHAIRMAN DIENER: The policy on the
13 scholarship criteria. Is there a second?
14 COMMISSIONER BARCLAY: Second.
15 CHAIRMAN DIENER: All in favor.
16 THE COMMISSION: "Aye".
17 CHAIRMAN DIENER: Opposed, same sign.
18 (No response.)
19 CHAIRMAN DIENER: Thank you, Mr. Young. This
20 is a policy and is open for further discussion as
21 we move along.
22 Item number ten, I asked that this be put on
23 the agenda. And my concern in wanting to bring
24 this up for discussion and not action today, I
25 tried to express at the last Commission meeting

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1 each of the horsemen's associations receive each
2 year by statute funds from the slot machines that
3 are undesignated. They can be used for whatever.
4 These are substantial. The ISA, for instance, last
5 year got about \$409,000. The HBPA had \$355,000.
6 And Quarter Horse Association got \$150,000.
7 These are undesignated. And what I was
8 looking at was, okay, well, we are also giving to
9 each horsemen's association a percent of purses
10 generated for administrative expenses. And when
11 you start dipping into horsemen's purses, that
12 automatically raises a red flag to me as to whether
13 or not there is too much money going to the
14 association for administrative purposes,
15 particularly when you are taking money out of
16 horsemen's purses for some of this.
17 However, I have to remind myself that these
18 monies coming from slot machines that are
19 undesignated, they are not unrestricted. Those
20 funds that the horsemen's association receive
21 cannot be used for either political contributions
22 or lobbying. To the extent a horsemen's
23 association wants to engage in those activities,
24 they can do it from other sources of funds or it
25 can use the funds that are deducted from the purses

1 generated for those. I don't know which is the
 2 best way to go.
 3 Where I'm coming down on this, as I say, we
 4 have, this Commission has approved routinely for
 5 each horsemen's contract to the best of my
 6 knowledge that three percent of the purses
 7 generated from live racing simulcasting goes for
 8 administrative expenses. And to the extent those
 9 funds are needed for lobbying or political
 10 contributions, that's a decision the horsemen's
 11 associations would have to make.
 12 Before the Commission takes action, I would
 13 ask whether or not it's reasonable. I want to get
 14 a sense from my fellow commissioners. I would like
 15 each horsemen's association to poll its members to
 16 explain to them about what you do in the way of
 17 political contributions and lobbying and ask the
 18 members whether they want those activities to be
 19 funded by a reduction in purses, by dues -- my
 20 recollection is the HBPA has no dues -- by an
 21 increase in dues, or by other sources of funds
 22 available to the association.
 23 I don't know what your members are going to
 24 say. I don't know, but I want them to have a voice
 25 in this issue and be aware that purse money is

1 going for lobbying. If they would like to see a
 2 different way to fund that, so be it. The numbers
 3 I have is that the three percent deduction from
 4 purses last year was about \$107,000 to the ISA,
 5 about \$126,000 to the HBPA, and \$6,600 to the
 6 Quarter Horse Association.
 7 I'm not saying at all that we could if we even
 8 wanted to prohibit or curtail or restrict in any
 9 way an association's lobbying activities. But when
 10 it comes to reduction in purses to do so, I'd like
 11 to hear what your members think. And I guess
 12 that's one I just want to open the discussion that
 13 way and get it in context for my concerns and see
 14 whether my fellow Commissioners have any thoughts
 15 on the best way to proceed on this matter. I will
 16 say that I just take a hard look at where
 17 state-directed funds are going to. I want to make
 18 sure it's being prudently spent, and I have a great
 19 concern when purses start getting dipped into to do
 20 things. Mr. Schaeffer.
 21 COMMISSIONER SCHAEFER: I would agree,
 22 Mr. Chairman, and I would like to hear from each
 23 group. They are all represented here today and see
 24 what their feeling is, how difficult it would be
 25 to present this to their members and find out if

1 their members actually know the three percent
 2 deduction is taking place in all the races. My
 3 suspicions are that they don't even know that
 4 that's the case.
 5 But I would -- I'm coming out on the side of
 6 what you're saying. We need to know that. If they
 7 agree to it, then so be it. We will go down the
 8 road a little bit and come back and whether that's
 9 covered by dues or special assessments, let that be
 10 the case also.
 11 CHAIRMAN DIENER: Mr. Young for the ISA.
 12 MR. YOUNG: Thank you, Mr. Chairman, Roger
 13 Young, attorney for the Indiana Standardbred
 14 Association. I think that's an excellent idea.
 15 Being attorneys we all know the decisions need to
 16 be made based on evidence. What you're suggesting
 17 amounts to evidence. And we can certainly do that.
 18 We can poll the membership.
 19 The only thing that, I guess, it doesn't
 20 concern me, but when the Chair was saying -- the
 21 way I see it is maybe we would first ask the
 22 membership do you support lobbying and political
 23 action taken on behalf of you by the ISA or
 24 something to that effect.
 25 And then we find out if they even support

1 lobbying and political action. Then maybe go ahead
 2 and say, okay, if you do support that, then, you
 3 know, currently it's being paid from the purse
 4 account. Do you wish that to continue or would you
 5 prefer it be paid some other way?
 6 This gets to the point that I wanted to make.
 7 The only way that the ISA could do that would be
 8 through either an assessment to the members or an
 9 increase in dues. There are no other sources.
 10 That's really the specific comment I would
 11 want to make to what the Chair said, as you were
 12 saying, the various areas that we would tell the
 13 membership we can get this money from. I don't
 14 want to tell them other sources because there are
 15 no other sources. I'm afraid if we were to tell
 16 them other sources, everybody would check other
 17 sources thinking there's a pile of money over here
 18 that's not purse money, that's not restricted
 19 funds. It's not going to come out of the members'
 20 pockets that can be used for this. That would be
 21 misleading.
 22 There are no other sources of funds available
 23 to us to pay for lobbying except our contractual
 24 funds from the racetrack or additional money we
 25 would extract from our membership. There are no

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1 other funds.
2 So I think the question there is a good idea.
3 I think developing evidence is a good idea on this
4 point, but I don't want to mislead the membership
5 that there's money over here somewhere that can be
6 gotten to because there just isn't. The only
7 source of lobbying funds would be our contract
8 funds or ding on the members for more dues money.
9 CHAIRMAN DIENER: Understood. Mr. Brown, do
10 you have any comments on polling members the way
11 we've talked about to get their input?
12 MIKE BROWN: I'm Mike Brown, Executive
13 Director of the HBPA. We can poll our members on
14 that. And I think it's appropriate periodically to
15 do something like that to make sure we are heading
16 in the direction that they want us to go.
17 In our case, by the way, we have never used
18 these contractual funds for any political action.
19 We've just taken the stance that we don't believe
20 that as an association we should probably do that
21 with these funds. We have used the bulk of them
22 for lobbying, as I indicated in the letter that was
23 circulated to you in advance of this meeting. And
24 we have used it for other items, expenditures that
25 don't fall neatly within the categories as defined

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1 by the 2007 slot law.
2 We certainly don't want to, we don't want to
3 smudge the lines there. We want to make sure we
4 are using our funds appropriately, and we have been
5 very careful stewards of that. We are also in the
6 process of redoing our bylaws in part to allow for
7 the collection of dues. So we think that that will
8 partly satisfy this too moving forward. We heard
9 you at your last registration hearing.
10 As our bylaws exist right now, we are supposed
11 to have been collecting one and a half percent of
12 our members' winnings. Obviously, we are not doing
13 that. And we need to rearrange the bylaws. I
14 don't believe they've been amended since Kennedy
15 was president.
16 But going back to your core question, yes, we
17 can poll our members and will poll our members and
18 will share with you the results of what we find
19 out.
20 CHAIRMAN DIENER: And just to clarify to make
21 sure I understood it correctly, the source of
22 funding for your current political action
23 activities and lobbying does come from the three
24 percent of the purses?
25 MIKE BROWN: We don't do any political action

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1 through that. It is strictly lobbying.
2 CHAIRMAN DIENER: Lobbying expenditures come
3 from those revenues.
4 MIKE BROWN: Yeah, as I said in the letter,
5 that's vital. We have to have a means of doing
6 that. We give full credit to our track partners
7 for having worked with us in the course of the
8 legislative processes so far. We walk down the
9 same road together. And their resources have been
10 used most frequently to our benefit. We
11 acknowledge that and appreciate that. But we don't
12 want to be left defenseless.
13 CHAIRMAN DIENER: Thank you. Questions? Any
14 other questions?
15 MS. ELLINGWOOD: Chairman, is it the
16 Commission's wish that to the extent that all of
17 the associations would be polled, Commission staff
18 might assist them in putting together a
19 questionnaire that could be used so it would all be
20 the same set of questions?
21 CHAIRMAN DIENER: I want to find out the
22 attitude of Commissioners on the issue of polling
23 and collecting additional data before we make a
24 decision, if anything on this. Do you all...
25 COMMISSIONER GRIMES: I think it's an

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1 appropriate beginning, Mr. Chairman, as the way to
2 start the process, getting information from the
3 members. With regard to who prepares the polling
4 material or questions --
5 MR. YOUNG: We would prefer to do that
6 ourselves, Mr. Chairman. If after what we've put
7 together the Commission finds to be of questionable
8 validity, then possibly staff could be directed to
9 do that, but this is something the ISA would want
10 to do itself.
11 CHAIRMAN DIENER: I understand, Mr. Young, but
12 I want some sort of uniformity amongst the three
13 associations in the polling questions. It should
14 be fairly simple.
15 MR. YOUNG: If I understand it right,
16 Thoroughbreds don't charge dues at all so we do.
17 When you talk about sources of available funds...
18 CHAIRMAN DIENER: They also don't collect a
19 percentage of winnings as they could have.
20 MR. YOUNG: That's the first I heard about
21 that. Apparently they don't do that though. I
22 think it would be difficult to put together a one
23 size fits all form.
24 CHAIRMAN DIENER: Let me suggest this then:
25 Each of the three associations, if you are willing

1 to do this, would be prepare the questionnaire for
 2 our staff's quick review before you send it out.
 3 MR. YOUNG: Sure.
 4 CHAIRMAN DIENER: I don't contemplate the
 5 Commission having another meeting until probably
 6 early, mid September so there should be adequate
 7 time to do this. I would simply ask once you get a
 8 questionnaire developed, if you just shoot it to
 9 the Commission staff, and we can get a sign off
 10 before you send it out because some of these
 11 questions could be slanted one way or another which
 12 could suggest certain answers. And I don't want
 13 that to happen.
 14 MR. YOUNG: I will be candid with the
 15 Commission. It is the ISA's position that lobbying
 16 is vital to our mission.
 17 CHAIRMAN DIENER: I don't doubt that at all.
 18 MR. YOUNG: The Board of Directors is going to
 19 want to encourage its membership to approve a
 20 consent to expenditure of purse funds for lobbying.
 21 Whether that's slanted or not, I suppose it is.
 22 CHAIRMAN DIENER: Not the lobbying but the
 23 funding, the funding question, that's all I'm
 24 concerned about.
 25 Let's go off the record for just a minute.

1 (A discussion was held off the record.)
 2 CHAIRMAN DIENER: Is that all right for the
 3 Commission?
 4 COMMISSIONER SCHAEFER: Yes, I was going to
 5 say the same thing.
 6 CHAIRMAN DIENER: Michelle.
 7 MICHELLE COLLINS: If it's all right, I would
 8 like to just make a comment for the record from the
 9 Quarter Horse Racing Association. The amount we
 10 receive is minimal compared to the other
 11 associations. However, the opportunity for us to
 12 be able to poll our membership and take that
 13 opportunity to educate because probably not every
 14 director on every board even understands the flow
 15 of money from the purse account that comes to our
 16 administrative expenses. So I think that's a great
 17 opportunity to help clarify a lot of unknown areas.
 18 But we've actually tried to already brainstorm
 19 about ways that we can do this.
 20 I want to be cautious about one of the ideas
 21 of increasing the membership fees to help pay for
 22 these types of things because every association is
 23 different. The QHRAI does not require people who
 24 participate in racing in Indiana to be a member.
 25 Rather, those who are actually receiving purse

1 money are the beneficiaries of the money coming
 2 through the purse account.
 3 So I think there are probably some ways we can
 4 brainstorm. I think states have different funds
 5 that possibly owners can sign a consent to say out
 6 of my earnings, I can have so much money put into
 7 these funds.
 8 So we will proceed with how we want to deal
 9 with that, and we will submit that. There's just a
 10 couple differences across the associations where it
 11 may not be easy to be uniform in the way that we
 12 approach the communication.
 13 CHAIRMAN DIENER: Thank you, Michelle. So
 14 unless there's an objection, we will proceed with
 15 the collection of additional information on this
 16 matter and ask that each of the three horsemen's
 17 associations prepare a proposed questionnaire for
 18 your members, which questionnaire will be reviewed
 19 by Commission staff. And then the data will be
 20 gathered, and the Commission will have that for
 21 their deliberations at their September meeting.
 22 Item number 11 is the Quarter Horse
 23 Association contract for this year. And the three
 24 percent in this contract applies through the
 25 calendar year 2013, even though the contract itself

1 goes on until March 31st of 2014. And rather
 2 than Mr. Keeler, Mr. Schuster is going to ask for a
 3 waiver of the rule since the track executed the
 4 contract without our prior approval. Mr. Schuster.
 5 JON SCHUSTER: We ask for a waiver.
 6 Mr. Chairman, we have noted the concerns of the
 7 Commission. And I think as we move forward with
 8 our contracts, I think it's a fairly simple process
 9 for us to be a little more prudent on the front
 10 end. This is a process that, while it doesn't make
 11 an excuse, it's the same process we have used all
 12 along the way. So shame on us for not being in
 13 line with that.
 14 Having said that, this is actually the first
 15 year at Indiana Downs, not necessarily Centaur,
 16 that we have had a contract with the Quarter Horse
 17 Association. We did in 2003 have a letter
 18 agreement, which I can't even find any more. It
 19 was about three sentences long.
 20 This is new ground for us to be in that with
 21 our partners with the Quarter Horse Association. I
 22 think their leadership and us all feel it's in all
 23 our best interest to have this reduced to writing
 24 and memorialized in that way. There is nothing
 25 substantive, any kind of changes in the way we have

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1 conducted business with them all along the way. We
2 would request Commission's approval.
3 CHAIRMAN DIENER: Mr. Schuster, I have one
4 question. And maybe I just don't understand or
5 maybe the template of the past doesn't apply
6 anymore. It looks to me like paragraphs two and
7 six kind of go at each other. By that, I mean the
8 scope of the Quarter Horse agreement here covers
9 pari-mutuel wagering, simulcast, whatever only at
10 Indiana Downs' facilities. Shouldn't it also
11 include also Hoosier Park's facilities and Hoosier
12 Park's OTBs, the simulcasting?
13 JON SCHUSTER: My understanding in our
14 discussions about this is that most, if not all of
15 the, and I will defer to John and Brian a little
16 bit if necessary, all of the wagering that takes
17 place within Indiana is actual statutory or
18 regulatory. If the contract is worded improperly
19 or not done exactly right, we all understand. And
20 I know the Commission has auditors that go through
21 to make sure everything is just right per the
22 statutes and regulations so that would always
23 supercede anything in the contract. And,
24 obviously, the contract would not supercede statute
25 or regulation.

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1 CHAIRMAN DIENER: I don't disagree, but we
2 have in-state simulcasting, satellite wagering.
3 The Quarter Horses are going to share a part of
4 that, whether it's an Indiana Downs' facility or a
5 Hoosier Park facility. And I think the contract --
6 Jon, I just want to so that on its face it's clear.
7 I understand what the statute says. And if you
8 would accept my suggestion, which would be that the
9 Commission act upon and approve this contract, and
10 I'm going to have the same comments on the HBPA
11 contract, that we approve those contracts. Those
12 contracts are approved. Those two associations are
13 going to be ready to sit down at the table on the
14 distribution agreements on the condition that the
15 Commission approve delegation of authority to its
16 general counsel and its chair, if need be, to
17 simply look to clean up amendments that should be
18 done, but otherwise it's approved.
19 And I really, maybe I should address that to
20 Mr. Keeler rather than to you. But would that be
21 satisfactory to you? I don't think this is a big
22 deal, John. I want to give you, the horsemen the
23 approval so they can go forward and sit down and
24 all the parties can start talking about next year,
25 but I would like the contracts cleaned up a little

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1 bit.
2 MR. KEELER: Mr. Chairman, I think it is
3 entirely reasonable. Ms. Ellingwood and I have
4 discussed that approach to remedy the problem that
5 you found. We are prepared to do that post haste.
6 CHAIRMAN DIENER: Okay Jon?
7 JON SCHUSTER: Yes.
8 CHAIRMAN DIENER: The motion today would be
9 that we approve the Quarter Horse Racing
10 Association contract with Indiana Downs as
11 submitted to us subject to staff approval of
12 amendments to that contract.
13 MS. ELLINGWOOD: Respectfully, I think that
14 the rule would only allow the Commission to
15 delegate to you, not the staff or any other
16 designee the authority to approve that. Staff
17 would be more than happy to assist you with that,
18 but I think the Commission would need to delegate
19 that authority to you. I'm sorry.
20 CHAIRMAN DIENER: Why are you smiling? All
21 right. Then I will change my motion so the
22 delegation of authority to review the amendments,
23 if any, to the Quarter Horse Association contract,
24 and I think there is going to be a couple, be
25 delegated to me, I guess.

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1 COMMISSIONER GRIMES: Second.
2 CHAIRMAN DIENER: All in favor.
3 THE COMMISSION: "Aye".
4 CHAIRMAN DIENER: So approved. Jon, do you
5 want to stay up for the HBPA?
6 JON SCHUSTER: I will.
7 CHAIRMAN DIENER: The HBPA contract is
8 similar, has the same questions I had before about
9 the interrelationship with paragraph two and six.
10 The term of the agreement is through March 31,
11 2014, but the issue, if there is an issue on the
12 three percent deduction from purses for
13 administrative expenses, continues only through
14 this calendar year. Is that a fair summary?
15 JON SCHUSTER: Yes.
16 CHAIRMAN DIENER: So I would suggest that we
17 accept Mr. Schuster's motion to waive the rule and
18 approve the HBPA contract subject to amendments
19 necessary and that approval on the conditions be
20 delegated to the Chair.
21 COMMISSIONER SCHAEFER: Second.
22 CHAIRMAN DIENER: All in favor.
23 THE COMMISSION: "Aye".
24 CHAIRMAN DIENER: Unanimous.
25 JON SCHUSTER: Thank you, Mr. Chair. Thank

1 you for taking on the extra duties. Appreciate it.
 2 CHAIRMAN DIENER: And we have one item of new
 3 business, which is the settlement agreement of the
 4 disciplinary action with Peter Wren. And I would
 5 remind the Commissioners that as you can tell in
 6 the recital of the settlement agreement, this is a
 7 settlement of one of two disciplinary actions for
 8 Mr. Wren. And I would caution you that we will not
 9 be discussing either the facts or circumstances of
 10 the other disciplinary action because that may come
 11 before us in our adjudicatory status. So we will
 12 only be discussing the settlement agreement of
 13 action number one. Miss Ellingwood.
 14 MS. ELLINGWOOD: Thank you, Mr. Chairman.
 15 Mr. Wren is licensed as an owner/trainer/driver.
 16 During a meeting with the judges, Mr. Wren became
 17 verbally abusive, vulgar, and threatening toward
 18 our presiding judge Tim Schmitz that's described in
 19 the Administrative Complaint that was provided to
 20 you.
 21 Commission staff very recently entered into
 22 settlement negotiations with Mr. Wren. The terms
 23 of that settlement agreement have been provided to
 24 you, again, for your review.
 25 Staff asks that you ratify that settlement

1 agreement under which Mr. Wren has agreed to a
 2 suspension of 120 days, which may be reduced, in
 3 certain will be reduced if certain conditions are
 4 met. Furthermore, he has agreed to pay a fine of
 5 \$2,500 and will be on a probationary license for
 6 the remainder of 2013 after his suspension and has
 7 further agreed to the extent that he applies for
 8 and is eligible for license in 2014 and 2015 would
 9 receive a probationary license at that time.
 10 I'm happy to try to answer any questions that
 11 you may have.
 12 CHAIRMAN DIENER: Questions from the
 13 Commissioners from this settlement agreement of one
 14 of two disciplinary actions?
 15 COMMISSIONER SCHAEFER: No.
 16 CHAIRMAN DIENER: I would move -- do we
 17 approve or ratify?
 18 MS. ELLINGWOOD: Ratify.
 19 CHAIRMAN DIENER: I would move the Commission
 20 ratify the settlement agreement of the disciplinary
 21 action mentioned in this settlement agreement.
 22 COMMISSIONER GRIMES: Second.
 23 CHAIRMAN DIENER: All in favor.
 24 THE COMMISSION: "Aye".
 25 CHAIRMAN DIENER: Opposed.

1 (No response.)
 2 CHAIRMAN DIENER: Anything else for the
 3 Commission today?
 4 MS. ELLINGWOOD: Mr. Chairman, for the record,
 5 I want to make a note that item 13, which appeared
 6 on everybody's original agenda, has been withdrawn.
 7 CHAIRMAN DIENER: It was withdrawn at the
 8 request of the proponent of that.
 9 We don't have a date for our next Commission
 10 meeting, but we are looking at early to mid
 11 September or thereabouts.
 12 We stand adjourned. Thank you.
 13 (The Indiana Horse Racing Commission meeting
 14 was adjourned at 10:35 a.m.)
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1
 2 ATE OF INDIANA
 3 UNTY OF JOHNSON
 4 I, Robin P. Martz, a Notary Public in and for
 5 id county and state, do hereby certify that the
 6 regoing matter was taken down in stenograph notes
 7 d afterwards reduced to typewriting under my
 8 rection; and that the typewritten transcript is a
 9 ue record of the Indiana Horse Racing Commission
 10 eting;
 11 I do further certify that I am a disinterested
 12 rson in this; that I am not a relative of the
 13 torneys for any of the parties.
 14 IN WITNESS WHEREOF, I have hereunto set my
 15 nd and affixed my notarial seal this 24th day of
 16 ne 2013.
 17
 18 *Robin P. Martz*
 19
 20
 21
 22
 23 Commission expires:
 24 rch 2, 2016
 25 b No. 75777



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